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BY ECF

Hon. Nicholas G. Garaufis
United States Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: United States v. Manny Bana, et al.
09 Cr 672 (S-1) (NGG)

Dear Judge Garaufis:

Mr. Bana is presently scheduled to start trial on October 11, 2011. By a letter dated September 6, 2011, the government has now disclosed for the first time “approximately thirty-two audio recordings” of statements allegedly made by Mr. Bana which they “recently discovered.” The government also advised that copies of such recordings will be produced shortly to the defense. To date, I have received nothing.

Mr. Bana is charged in the Indictment with loansharking between May 1, 2004, and November 17, 2008. He is not charged in the racketeering counts. When I asked the government about the “recently discovered” recordings, I was advised that they are consensual recordings made by a cooperating witness in the 1990's - long before the relevant time frame charged in the indictment. And, that there were many more recordings made by this as yet unidentified cooperating witness in the 1990's which should also be made available to the defense, purportedly as Rule 16 and/or Giglio materials.

I am a solo practitioner. Assuming Your Honor deems these recordings from the 90's relevant and admissible at trial - with the trial just weeks away - this will not leave me with enough time to adequately review, understand and, if necessary, prepare transcripts of the recordings.

If Your Honor determines that these recordings will be admissible at trial, the government has understandably consented to my request for an adjournment. Obviously, until I receive all of the tapes, I will be unable to estimate how much time I may need to adequately review them.

Respectfully yours,

/JRF

James R. Froccaro, Jr.

JRF:tp